

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RODNEY D. HARVEY,)
Petitioner,)
vs.) Case No. 4:14-cv-01663-JAR
TROY STEELE,)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner Rodney D. Harvey's Motion Requesting the Writ of Habeas Corpus Court to Order Respondent to Comply to this Court's Rule 5(c) (Doc. 18) (hereinafter "Rule 5(c) Motion"). Petitioner requests certain exhibits he asserts were not attached to his copy of Respondent's Response to the Order to Show Cause. Specifically, Petitioner requests the following exhibits:

- (1) Respondent's Exhibit F: a copy of the post-conviction appeal legal file;
- (2) Respondent's Exhibit G: a copy of Harvey's post-conviction appeal brief;
- (3) Respondent's Exhibit H: a copy of the State's post-conviction appeal brief; and
- (4) Respondent's Exhibit I: a copy of the opinion of the Missouri Court of appeals, affirming the denial of post-conviction relief.

In support of his request, Petitioner cites to Rule 5(c) of the Rules Governing Section 2254 Cases. Rule 5(c) provides, in relevant part, "The respondent must attach to the answer parts of the transcript that the respondent considers relevant." However, Petitioner's reliance on Rule 5(c) is misplaced. Rule 5(c) does not require service of the exhibits, only that Respondent file these exhibits with the Court. Although the Court has the discretion to require Respondents to provide these documents free of charge, Petitioner has not sought or been granted leave to proceed in forma pauperis. 28 U.S.C. § 2250. Furthermore, Petitioner has not demonstrated that he has

made any effort to obtain these documents from the state court or his prior counsel. Therefore, the Court will deny Petitioner's Rule 5(c) Motion.

Petitioner has also filed a Motion for Extension of Time (Doc. 19). Petitioner requests an additional 90-120 days to reply to Respondent's answer to his petition. In support of his motion, Petitioner asserts that he has limited access to the law library due to unforeseen circumstances at the institution and that the LexisNexis subscription is significantly restricted such that he has to seek outside help from his family in order to conduct some research. For good cause show, the Court will grant Petitioner's Motion for Extension of Time.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion Requesting the Writ of Habeas Corpus Court to Order Respondent to Comply to this Court's Rule 5(c) (Doc. 18) is **DENIED without prejudice.**

IT IS FURTHER ORDERED that Petitioner's Motion for Extension of Time (Doc. 19) is **GRANTED**. Petitioner shall file his reply on or before **July 7, 2015**.

Dated this 10th day of April, 2015.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE